

DN: POSTJUDG.5

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
Plaintiff,)	CIVIL ACTION NO. CV 94 4993
v.)	
Paul Napoli,)	
Patricia Napoli)	
Defendant(s),)	HON. Arthur D. Spatt
and)	
Suffolk County National Bank)	
Garnishee)	

APPLICATION FOR WRIT OF CONTINUING GARNISHMENT

1. The United States of America, plaintiff, makes application in accordance with 28 U.S.C. § 3205(b)(1) to the Clerk of the United States District Court to issue a Writ of Garnishment upon the judgment entered against the Defendant(s) Paul Napoli, social security number XXX-XX-7506, whose last known address is: 1026 Martinstein Avenue Bay Shore, NY 11706, in the above-cited action in the amount of \$3,711.95, plus post-judgment interest at the rate of 5.880%, from May 31, 1995 compounded annually.

2. Demand for payment of the above-stated debt was made upon the debtor not less than 30 days prior to the date here of and debtor has failed to satisfy the debt.

3. The Garnishee is believed to owe or will owe money or property to the judgment debtor, or is in possession of property of the debtor, and said property is a nonexempt interest of the

debtor. The name and address of the Garnishee or his/her
authorized agent is:

Suffolk County National Bank
Operations Services
4 West 2nd Street
Riverhead, NY 10901

Dated: Albany, NY
August 9, 2006



Douglas M. Fisher
(DF3129)

This is an attempt to collect a debt. Any information obtained
will be used for that purpose. This is a communication from a
debt collector. Calls are monitored for quality review purposes.

DN: POSTJUDG.6

TO: Suffolk County National Bank
Operations Services
4 West 2nd Street
Riverhead, NY 10901

INSTRUCTIONS TO THE GARNISHEE

Attached is a Writ of Garnishment requesting that you determine whether or not you have in your possession, custody or control any of the property of the debtor listed therein, or any other property of the debtor. You are required by law to serve a written answer to this writ within 10 days of your receipt of this writ. You are further required to withhold and retain any property in which the debtor has a substantial non-exempt interest including, if applicable, any bank accounts, funds, negotiable instruments, any personal property, and/or if applicable, ten (10) percent of Defendant's disposable non-exempt earnings. A list of exemptions which are not subject to the Writ of Garnishment is attached to the Writ, entitled Claim for Exemption form.

IF YOU FAIL TO ANSWER THIS WRIT OR TO WITHHOLD PROPERTY IN ACCORDANCE WITH THE WRIT, THE COURT MAY MAKE YOU LIABLE FOR THAT AMOUNT OF THE DEBTOR'S NON-EXEMPT PROPERTY WHICH YOU FAILED TO WITHHOLD. ADDITIONALLY, YOU MAY BE HELD LIABLE FOR A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AMERICA IF THE UNITED STATES FILES A PETITION TO THE COURT REQUESTING AN EXPLANATION FOR YOUR FAILURE TO COMPLY WITH THIS WRIT.

If you have any additional questions, please call Solomon

and Solomon, P.C., Kris Zolnierowicz at (518) 456-7200, Ext. 454,
or by mail to:

Solomon and Solomon, P.C.
Columbia Circle, Box 15019
Albany, NY 12212-5019
Attn: DOJ Student Loan Unit

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DN: POSTJUDG.7

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
Plaintiff,)	CIVIL ACTION NO. CV 94 4993
v.)	
Paul Napoli)	
Patricia Napoli)	
Defendant(s),)	HON. Arthur D. Spatt
and)	
Suffolk County National Bank)	
Garnishee)	

WRIT OF CONTINUING GARNISHMENT

GREETINGS TO: Suffolk County National Bank
Operations Services
4 West 2nd Street
Riverhead, NY 10901

An application for a Writ of Garnishment against the property of Paul Napoli, defendant, has been filed with this Court. A judgment has been entered against the above-named defendant in the amount of \$3,711.95, plus costs and interest from May 31, 1995, computed through the date here of.

You are required by law to answer in writing, under oath, within ten (10) days, whether or not you have in your custody, control or possession, any property and/or funds owned by the debtor, including non-exempt, disposable earnings.

Please state whether or not you anticipate paying the debtor any future payments and whether such payments are weekly, bi-weekly or monthly and/or whether you anticipate being in

receipt of any additional property of Defendant in the future.

You must file the original written answer to this writ within ten (10) days of your receipt of this writ with the United States District Clerk at:

Clerk of the Court
U.S. District Court
100 Federal Plaza, P.O. Box 9014
Central Islip, NY 11722

Additionally, you are required by law to serve a copy of this writ upon the debtor at: 1026 Martinstein Avenue Bay Shore, NY 11706 and upon the Attorney for the United States of America, Solomon and Solomon, P.C., Five Columbia Circle, Box 15019, Albany, NY 12212-5019.

Under the law, there is property and/or funds that are exempt from this Writ of Garnishment. Property and/or funds that are exempt and that are not subject to this order are listed on the attached Claim for Exemption form. You are required to withhold and retain any property and/or funds in which the Defendant has a substantial non-exempt interest until further notice.

Pursuant to 15 U.S.C. §1674, Garnishee is prohibited from discharging the defendant from employment by reason of the fact that his earnings have been subject to garnishment for any one indebtedness.

If you fail to answer this writ or withhold property and/or

funds in accordance with this writ, the United States of America may petition the Court for an order requiring you to appear before the Court. If you fail to appear or do appear and fail to show good cause why you failed to comply with this writ, the Court may enter a judgment against you for the value of the debtor's non-exempt property. It is unlawful to pay or deliver to the defendant any item attached by this writ.

Dated: _____
Central Islip, NY

Robert C. Heinneman
Clerk, U.S. District Court

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DN: POSTJUDG.8

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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Plaintiff,)	CIVIL ACTION NO. CV 94 4993
v.)	
Paul Napoli)	
Patricia Napoli)	
Defendant(s),)	HON. Arthur D. Spatt
and)	
Suffolk County National Bank)	
Garnishee)	

INSTRUCTIONS TO DEBTOR
CLERK'S NOTICE OF POST-JUDGMENT
GARNISHMENT

You are hereby notified that the non-exempt earnings are being taken by the United States of America which has a Court judgment in civil action number, CV 94 4993, U.S. District Court for the Eastern District of New York, in the sum of \$3,711.95 from May 31, 1995, for a Department of Education Loan.

In addition, you are hereby notified that there are exemptions under the law which may protect some of the property and/or funds from being taken by the Government if Patricia Napoli, can show that the exemptions apply. Attached is a summary of the major exemptions which apply in most situations in the State of New York.

If you are Paul Napoli, you have a right to ask the court to return your property and/or funds to you if you think you do not owe the money to the Government that it says you do, or if you think the property and/or funds the Government is taking

qualifies under one of the above exemptions.

If you want a hearing, you must notify the court within 20 days after receipt of the notice. Your request must be in writing.

If you wish, you may use this notice to request the hearing by checking the box below. You must either mail it or deliver it in person to the Clerk of the United States District Court, Eastern District of New York at 100 Federal Plaza, P.O. Box 9014, Central Islip, NY 11722. You must also send a copy of your request to the Attorneys for the United States of America, Solomon and Solomon, P.C., Five Columbia Circle, Box 15019, Albany, NY 12212-5019, Attention: DOJ Student Loan Unit, so the Attorneys for the United States of America will know you want a hearing.

The hearing will take place within 5 days after the Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

At the hearing you may explain to the judge why you think you do not owe the money to the Government. If you do not request a hearing within 20 days of receiving this notice, your property may be sold at public auction and the proceeds of the sale paid on the debt you owe the Government.

If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20

days after you receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the United States District Court, Eastern District of New York at 100 Federal Plaza, P.O. Box 9014, Central Islip, NY 11722. You must also send a copy of your request to the Attorneys for the United States of America, Solomon and Solomon, P.C., Five Columbia Circle, Box 15019, Albany, NY 12212-5019, Attention: DOJ Student Loan Unit, so the Attorneys for the United States of America will know you want the proceeding to be transferred.

Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you to other sources of information.

Dated: _____
Central Islip, NY

Robert C. Heinneman
Clerk, U.S. District Court

☐ request a hearing.

Date

Defendant

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CLAIM FOR EXEMPTION FORM
MAJOR EXEMPTIONS UNDER FEDERAL LAW

I claim that the exemption(s) from garnishment of wages or property which are checked below apply this case:

- ☐ 1. Social Security benefits and Supplementary Security income (42 U.S.C. Section 407).
- ☐ 2. Veterans' benefits (38 U.S.C. Section 3101).
- ☐ 2a. Members of armed services (10 U.S.C. Section 1440, 38 U.S.C. Section 562).
- ☐ 3. Federal civil service retirement benefits (5 U.S.C. Section 8346 and 22 U.S.C. Section 4060 (c)).
- ☐ 4. An annuity to survivors benefits (28 U.S.C. Section 376 (n)).
- ☐ 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. Section 916).
- ☐ 6. Black lung benefits (30 U.S.C. Section 931 (b) (2) (f) and 932 (a)).
- ☐ 6a. Seaman's master's of fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C.A. Section 1108-1109 (a-c)).

Exemptions listed 1 through 6 may not be applicable in child support and alimony cases (42 U.S.C. Section 659).

☐ 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. Section 231 (m)).

☐ 7. Bankruptcy Code (Title 11, United States Code) which generally provides exemptions for:

☐ \$15,000 in equity in a residence.

☐ \$2,400 in equity in a motor vehicle.

☐ \$1,000 in jewelry.

☐ \$8,000 in personal property.

☐ \$1,500 in equity in any implements, professional books, or tools, of the trade of the debtor or the trade of a dependant of the debtor.

☐ In addition, a debtor who does not own a residence or who has less than \$15,000 in equity in a residence may exempt an additional \$7,500 in personal property. Additional exemptions or limited exemptions apply to such items as insurance contracts, pensions and various benefits such as Social Security.

☐ 8. Compensation for war risk hazards (42 U.S.C. Section 1717).

MAJOR EXEMPTIONS UNDER STATE LAW

NOTE: The law of the state where you have been domiciled for at least 180 days governs you rights.

NOTE: If you have selected the Bankruptcy Code exemptions (line 7 above), you may not also claim the state law exemptions listed below. A summary of the major exemptions provided by New York State Law is as follows:

9. Personal property, certain household property furnishings, certain animals up to \$450 in value, wearing apparel, certain jewelry up to \$35 in value, certain tools of trade up to \$600 in value, certain property damage causes of action, certain property held in trust, certain retirement plans, certain insurance contracts and annuities, certain trust income, certain percentage of wage income, (except as preempted by Federal Law pursuant to 28 U.S.C. Section 3004 (d) which permits the garnishment of up to twenty-five (25) percent of disposable non-exempt earnings subject to Section 303 of the Consumer Credit Protection Act), spousal and child support order income, income for military service, mile sale proceeds, certain rental and utility security deposits, certain medical equipment. In this case preemption reduced the percentage down from twenty-five (25) percent to ten (10) percent.

Property Claimed:

Fair Market Value:

\$ _____
\$ _____
\$ _____

(Attach additional sheets, if necessary)

10 Real property up to \$10,000 in value, the equity in land with dwelling, cooperative apartment corporation stock shares, condominium units, or mobile home, certain burial plots.

Address of Real Property	Fair Market Value	Liens	Equity
_____	_____	_____	_____

(Attach additional sheets, if necessary)

11 Other. Describe basis of claim for exemption and property.

This statement made in this claim of entitlement to exemptions and request for hearing as to exemption entitlements and fair market value of the property designated are made and declared under penalty and perjury that they are true and correct. I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

_____ or telephonically at (_____) _____
(Address) Phone no.

Defendant's printed name or typed name	Signature of the Defendant	Date
_____	_____	_____

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DN: POSTJUDG.10

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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Paul Napoli)	
Patricia Napoli)	
Defendant(s),)	HON. Arthur D. Spatt
and)	
Suffolk County National Bank)	
Garnishee)	

ANSWER OF THE GARNISHEE

_____, BEING DULY SWORN DEPOSES AND SAYS:
(Affiant)

IF GARNISHEE IS AN INDIVIDUAL:

That he/she is Garnishee herein doing business in the name
of _____.

(State full name and address of business)

IF GARNISHEE IS A PARTNERSHIP:

That he/she is a member _____ of a
partnership composed of which Garnishee is a partner.

IF GARNISHEE IS A CORPORATION:

That he/she is the (State Official Title) _____
of Garnishee, _____ a corporation, organized under
the laws of the State of _____.

On _____, 200__, Garnishee was served with the Writ of
Continuing Garnishment. For the pay period in effect on the date

of service (shown above)

Yes No

____ 1. Defendant was in my/our employ.

1a. Defendant last known address:

2. Pay period is _____ weekly, _____ bi-weekly
 _____ semi-monthly, _____ monthly.

Enter date present pay period began.

(Present means the pay period in which
 this order and notice of garnishment were
 served)

Enter date above pay period ends.

3. Enter amount of net wages. Calculate below:

(a) Gross Pay \$_____

(b) Federal income tax _____

(c) F.I.C.A. income tax _____

(d) State income tax _____

Total of tax withholdings \$_____

Net Wages \$_____

(a less total of b,c,d)

____ 4. Have there been previous garnishments in effect.

If the answer is yes, describe below.

5. The Garnishee has custody, control or possession of the following property and/or funds (non-earnings), in which the Debtor maintains an interest, as described below:

<u>Description of Property</u>	<u>Approximate Value</u>	<u>Description of Debtor's Interest in Property</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

Garnishee anticipates owing to the judgment-debtor in the future, the following amounts:

<u>Amount</u>	<u>Estimate date or Period Due</u>
1. \$ _____	_____
2. \$ _____	_____
3. \$ _____	_____
4. \$ _____	_____

(Check the applicable line below if you deny that you hold

property subject to this order of garnishment.)

_____ The Garnishee makes the following claim of exemption on the part of Defendant:

_____ Or has the following objections, defenses, or set-offs to Plaintiff's right to apply Garnishee's indebtedness to Defendant upon Plaintiff's claim:

_____ The Garnishee was then in no manner and upon no account indebted or under liability to the Defendant, Paul Napoli, and that the Garnishee did not have in his/her possession or control any property belonging to the Defendant, or in which the Garnishee has an interest; and is in no manner liable as Garnishee in this action.

The Garnishee mailed a copy of this answer by first-class mail to (1) the Debtor, Paul Napoli, 1026 Martinstein Avenue Bay Shore, NY 11706, and (2) the attorneys for the United States, Solomon and Solomon, P.C., Five Columbia Circle, Box 15019, Albany, NY 12212-5019.

Garnishee

Subscribed and sworn to before me this
_____ day of _____ 200__.

Notary Public

My Commission expires: _____

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ATTACHMENT TO ANSWER OF GARNISHEE

The Original Answer must be mailed to:

Clerk, United States District Court
100 Federal Plaza, P.O. Box 9014
Central Islip, NY 11722

and a copy of this Answer to:

Solomon and Solomon, P.C.
Five Columbia Circle, Box 15019
Albany, NY 12212-5019
Attention: DOJ Student Loan Unit

and a copy of this answer to the defendant:

Paul Napoli
1026 Martinstein Avenue
Bay Shore, NY 11706

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